

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

KELLY WINKLEMAN, #B84057,

Plaintiff,

vs.

DR. ADRIAN FEINERMAN,

Defendant.

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Case No. 08-cv-0369-MJR

MEMORANDUM AND ORDER

REAGAN, District Judge:

In May 2008, Kelly Winkleman filed suit against Dr. Adrian Feinerman pursuant to **42 U.S.C. § 1983**. Winkleman alleges that Feinerman refused to provide him with any significant medical treatment for a painful nail infection, in violation of his rights under the Eighth Amendment.

On December 6, 2010, Magistrate Judge Philip M. Frazier submitted a Report and Recommendation (“the Report”) pursuant to **28 U.S.C. § 636(b)(1)(B)**, regarding Feinerman’s motion for summary judgment (Doc. 47). The Report finds that Winkleman has failed to allege facts from which a “serious medical need” can be inferred, and, even if his medical need were serious, has failed to show that Feinerman was “deliberately indifferent” to that need. The Report also finds that qualified immunity shields Feinerman because Winkleman has failed to establish that, at the time of the events alleged in his Complaint, the courts had definitively recognized failure to treat fungal nail infections as a violation of the Eighth Amendment.

The Report was sent to the parties with a notice informing them of their right to appeal by way of filing “objections” within ten days of service of the Report. To date, neither party

has filed objections. The period in which to file objections has expired. Therefore, pursuant to **28 U.S.C. § 636(b)**, this Court need not conduct *de novo* review. *Thomas v. Arn*, **474 U.S. 140, 149-52 (1985)**.

Accordingly, the Court **ADOPTS** the Report and Recommendation (Doc. 52) in its entirety, **GRANTS** Defendant Feinerman's motion for summary judgment (Doc. 47) and **DISMISSES** this action with prejudice. This case is now closed.

IT IS SO ORDERED.

DATED this **3rd** day of **January, 2011**

s/Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge